THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.272 of 2007

20.3.2007

Between:
The Gram Panchayat, Venkatraopally through
Smt.Burra Shashikala, W/o.Muthyalu

… Petitioner

AND

The Commissioner, Panchayat Raj, Urdugally,
Himayathnagar, Hyderabad
And another

… Respondents

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ORDER:

The Gram Panchayat, Venkataraopally, filed the instant writ petition seeking a writ of Mandamus declaring action of the respondents, namely, the General Manager, Area-II Division, Singareni Collieries, Godavari Khani, in seeking to shift Thursday weekly market, Venkataraopally Gram Panchayat, to Monday weekly market in Ramagundam Municipal area, Karimnagar, as arbitrary and illegal.

It is the case of the petitioner that in 8 Incline Colony of Singareni Collieries, Godavari Khani, a weekly market is being conducted in shopping complex in the last thirty years. The Gram Panchayat is conducting auction to give licence to collect the market fees from the merchants who set up their shops in the weekly market. When Godavari Khani tried to interfere with the market operations, the petitioner filed O.S. No.69 of 1995 on the file of the Court of the Junior Civil Judge, Manthani, for perpetual injunction. The suit was dismissed. The petitioner then filed an appeal before the Court of learned Senior Civil Judge, Manthani, along with an application being I.A.No.1288 of 2006 for condonation of delay. In the meanwhile the second respondent issued pamphlets proposing to shift Thursday

weekly market from the Gram Panchayat, Venkataraopally, to Monday weekly market in Ramagundam Municipal area. Aggrieved by the same the present writ petition is filed.

At the stage of admission itself, the Junior Mining Officer, Incharge of estate matters, Godavari Khani, filed counter affidavit. An objection is raised regarding maintainability of writ petition on the ground that when the civil dispute is pending writ petition would not lie. It is also averred that the market is being shifted from highly congested area near shopping complex to more convenient locality and that the same does not in any manner affect the residents. Such a move was taken up to solve the traffic problem in the locality. Placing reliance on the observations made by the Junior Civil Judge in O.S.No.69 of 1995, it is alleged that in the absence of any resolution passed by the Gram Panchayat, it cannot have any objection for the second respondent's proposal to shift weekly market from one place to another place.

Though the counter affidavit is filed on 05.1.2007, no reply affidavit is filed denying the allegation that the appeal filed by the Gram Panchayat against the judgment in O.S.No.69 of 1995 is pending. Therefore when once the petitioner has already availed the civil remedy and the appeal is pending against the judgment of the trial Court, this writ petition is not maintainable. It is always open to the petitioner to approach the appellate Court and obtain appropriate orders. As the civil dispute is pending, it would not be proper for this Court to express any opinion with regard to the authority of the Gram Panchayat to have any say in the matter of shifting the weekly market or with regard to the authority of Singareni Collieries, Godavari Khani, to shift the market from one place to another place. The submission of the learned Standing Counsel for Singareni Collieries is that Singareni Collieries has not established any market as such but only provided place for those merchants, business people and vegetable vendors to set up their goods weekly once. The same is recorded.

The writ petition, with the above observations, is accordingly disposed of. No costs.

(**V.V.S.RAO, J**)

March 20, 2007

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